

(Acts No. 3)

Act No. 11 of 1963

**THE EAST AFRICAN INCOME TAX (MANAGEMENT)
(AMENDMENT) ACT, 1963**

Assented to on behalf of the East African Common Services Organization.

JULIUS K. NYERERE,

Date: 2nd October, 1963.

President of Tanganyika.

W. F. COUTTS,

Date: 26th September, 1963.

Governor-General of Uganda.

E. GRIFFITH-JONES,

Date: 8th October, 1963.

Acting Governor of Kenya.

**AN ACT TO AMEND THE EAST AFRICAN INCOME
TAX (MANAGEMENT) ACT, 1958**

*Date of Commencement: Refer to subsections (2), (3) and (4)
of section 1*

ENACTED by the President of Tanganyika, the Governor-General of Uganda and the Governor of Kenya on behalf of the East African Common Services Organization with the advice and consent of the East African Central Legislative Assembly.

1. (1) This Act may be cited as the East African Income Tax (Management) (Amendment) Act, 1963, and shall be read and construed as one with the East African Income Tax (Management) Act, 1958, hereinafter referred to as the principal Act.

Short title and commencement.

(2) Subject to subsections (3) and (4), the provisions of this Act shall be deemed to have come into operation on 1st January, 1963, and shall have effect in relation to assessments for the year of income 1963 and for each subsequent year of income.

(3) The provisions of paragraphs (e) and (f) of section 3 shall be deemed to have come into operation on 1st January, 1961, and shall have effect in relation to assessments for the year of income 1961 and for each subsequent year of income.

(4) The provisions of sections 2, 4 (except for paragraph (c)), 7 and 8 shall be deemed to have come into operation on 1st January, 1962, and shall have effect in relation to assessments for the year of income 1962 and for each subsequent year of income.

Amendment of
section 7 of
principal Act.

2. Section 7 of the principal Act is hereby amended in subsection (2) by inserting immediately after the words "section 40 of this Act", the following words—

"or in the case of a dividend paid to a non-resident company which is deemed to be resident in any Territory under subsection (8) of section 37".

Amendment of
section 37 of
principal Act.

3. Section 37 of the principal Act is hereby amended as follows—

(a) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) For the purposes of this section, in relation to any accounting period a company shall be deemed to be a subsidiary company if another company, not being a controlled company, or two or more other companies none of which is a controlled company, during the whole of a period of twelve months after the end of such accounting period, enjoyed the beneficial interest in shares of the company—

(a) carrying more than 50 per cent of the voting power; and

(b) representing more than 40 per cent of the equity; and

(c) representing more than 40 per cent of the assets.”;

(b) in subsection (3), by deleting in paragraph (c) thereof the words “entitling the holders to more than 25 per cent of the net assets in the event of a winding-up” and substituting therefor the words “representing more than 25 per cent of the assets”;

(c) in subsection (4)—

(i) by inserting in subparagraph (ii) of paragraph (a) immediately after the word “equity” the following—

“and less than 10 per cent of the assets”;

and

(ii) by adding the word “or” after the semi-colon at the end of subparagraph (ii) of paragraph (b)

and adding immediately below the following new subparagraph—

“(iii) in shares of the company representing 20 per cent or more of the assets”;

(d) in subsection (7), by adding the word “or” after the semi-colon at the end of paragraph (b) and adding immediately below the following new subparagraph—

“(c) if any five or fewer persons together possess or are entitled to acquire shares of the company representing more than 50 per cent of the assets;”;

(e) in subsection (8), by deleting the second proviso thereto and substituting therefor the following new proviso—

“And provided further that a non-resident company which would otherwise be deemed under this subsection to be a resident company, shall not be so deemed if—

(i) it can be deemed under subsection (7) to be under the control of not more than five persons only by including among such persons a company, or the nominees of a company, which the Commissioner is satisfied is not a controlled company, and which is not the nominee of any person other than a company which is not a controlled company; or

(ii) the Commissioner is satisfied that the total interest, direct or indirect, of individuals resident in East Africa in the company which carried on such business represents less than five per cent of the equity and five per cent of the assets.”; and

(f) in subsection (10), by deleting the full stop at the end thereof and substituting therefor a semi-colon and the word “and” and adding immediately below the following new paragraph—

“(c) to shares of a company representing a percentage, or more or less than a specified percentage, of the assets, shall be construed as a reference to shares of such company representing such part of the issued share capital of

such company as would, if the company were to be wound up, entitle the holders of such shares to such percentage, or more or less than such percentage, as the case may be, of the net assets available in such winding-up”.

Amendment of section 38 of principal Act.

4. Section 38 of the principal Act is hereby amended
- (a) in item (a) of subparagraph (i) of paragraph (A) of subsection (2), by deleting the figures “25” and substituting therefor the figures “30”;
 - (b) in subsection (3), by deleting the figures “10” and substituting therefor the figures “11”; and
 - (c) in subsection (4), by deleting paragraph (a) and substituting therefor the following new paragraph—
 - “(a) For the purposes of subparagraph (i) of paragraph (A) of subsection (2), a controlled company to which subsection (3) does not apply may, within twelve months or such further period as the Commissioner may permit, after the end of any accounting period, elect by notice in writing to the Commissioner that subparagraph (i) (b) of paragraph (A) of subsection (2) shall apply to such company, and such election shall have effect for such accounting period and succeeding accounting periods amounting in total to not less than five years”.

Amendment of section 40 of principal Act.

5. Section 40 of the principal Act is hereby amended by deleting subsection (1) and substituting the following new subsection—
- “(1) Where a controlled company commences to be wound up, and a deduction in respect of development expenditure has been allowed under paragraph (A) of subsection (2) of section 38 and less than 90 per cent of the development expenditure allowed has been added under paragraph (B) of subsection (2) of section 38 there shall be added under paragraph (B) in ascertaining the distributable income for the accounting period which terminated immediately prior to the commencement of the winding-up, the difference between 90 per cent of such development

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expenditure and the sum of additions made under paragraph (B) in previous accounting periods, instead of the amount set out in paragraph (B)".

6. Section 64 of the principal Act is hereby amended by deleting paragraph (d) of subsection (2) and substituting therefor the following new paragraph—

Amendment of section 64 of principal Act.

"(d) such other particulars as the Commissioner may require, either generally by notice published in the Gazette or by notice in writing given to a particular company;"

7. Section 69 of the principal Act is hereby amended by inserting immediately after the figures "64" in paragraph (c) the following words—

Amendment of section 69 of principal Act.

“, but not exceeding in the case of a dividend received by a person other than an individual, a trustee or a controlled company, an amount equal to tax at the standard rate chargeable on the amount of the dividend”.

8. Section 118 of the principal Act is hereby amended by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of section 118 of principal Act.

“(1) Subject to this section, to sections 119 and 123, and to any Rules made under paragraph (a) of subsection (1) of section 148, the tax charged in an assessment made on any individual shall be payable on or before 31st October in the year following the year of income in respect of which the tax is charged:

Provided that where the notice of assessment on any individual for any year of income is not served until after 1st October in the year following such year of income, the tax shall be payable on or before a date thirty days after the date of service of such notice:

Provided further that where an instalment of one-half of the tax has been paid on or before the due date and that date is earlier than fifteen months from the end of the year of income, a second such instalment shall be payable not later than fifteen months from the end of the year of income.”.

Amendment of
First Schedule
to principal Act.

9. The First Schedule to the principal Act is hereby amended—

(a) in Head A of Part I thereof—

(i) by deleting Item 20 and substituting therefor the following new Item—

“20. The income of Boards established under the Agricultural Products (Control and Marketing) Act, 1962, of Tanganyika, derived solely from the marketing of specified agricultural products in accordance with such Act.”;

(ii) in Item 26 by deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) the Tanganyika Pyrethrum Board established under the Pyrethrum Ordinance of Tanganyika.”;

(iii) by deleting Item 42 and substituting therefor the following new Item—

“42. The income of the Agricultural Credit Agency established under the Agricultural Credit Agency Ordinance, 1961, of Tanganyika.”; and

(iv) by adding the following new item—

“54. That part of the income of any officer of the Government of any of the Territories or the Organization accrued in or derived from East Africa which consists of foreign allowances paid to such officer from public funds in respect of his office :

Provided that, where any person to whom such an allowance is paid is granted a deduction under section 14 in respect of any expenditure incurred in relation to any activity for which the allowance is paid, then the exemption conferred by this paragraph shall not apply to so much of such allowance as is equal to the amount of such deduction.”

(b) in Head C of Part I thereof, by deleting in Item 3 the words “of the United Kingdom” and substituting therefor the words “of Tanganyika”.

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10. Paragraph 27 of the Second Schedule to the principal Act is hereby amended—

Amendment to
Second Schedule
to principal Act.

(a) in subparagraph (b), by inserting immediately after the figures "1962" the following words "but before the 12th June, 1963";

(b) by deleting the comma at the end of subparagraph (b), substituting therefor a semi-colon and the word "or" and inserting immediately thereafter the following new subparagraph—

"(c) a person incurs capital expenditure to which this Schedule applies on the construction of an industrial building where such construction commenced after the 11th June, 1963, and which is to be used by him or by a lessee for the purposes of a trade which consists in the manufacture of goods or materials or the subjection of goods or materials of local origin to any process and on the purchase and installation of machinery in such building for the purposes of such trade,"; and

(c) by deleting subparagraph (ii) and substituting therefor the following new subparagraphs—

"(ii) in the case of capital expenditure to which subparagraph (b) applies, to ten per cent of such expenditure; and

(iii) in the case of capital expenditure to which subparagraph (c) applies, to twenty per cent of such expenditure."